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OFFICE OF PETITIONS

In re Patent No. 6,972,335	:	
Danishefsky et al.	:	DECISION ON REQUEST FOR
Issue Date: December 6, 2005	:	RECONSIDERATION OF
Application No. 10/004,571	:	PATENT TERM ADJUSTMENT
Filed: December 4, 2001	:	
Attorney Docket No. 2003080-0071	:	
(SK-744-CON4)	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed January 9, 2006, which is being treated as a petition under 37 C.F.R. § 1.705(d).¹ Patentees request that the patent term adjustment indicated in the patent be corrected from seven hundred eleven (711) days to seven hundred fifty (750) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **DISMISSED**.

Patentees are given TWO (2) MONTHS from the mailing date of this decision to respond. No extensions of time will be granted under § 1.136.

On December 6, 2005, the above-identified application matured into U.S. Patent No. 6,972,335. The instant request for reconsideration filed January 9, 2006, was timely filed within 2 months of the date the patent issued. See § 1.705(d). The patent issued with a revised Patent Term Adjustment of 711 days. This revised determination was calculated as follows: The initial determination of PTA of 671 days was increased by

¹The Office notes that 37 C.F.R. § 1.705(d) provides for a revision of the patent term adjustment when revision is necessitated by events occurring after the mailing of the notice of allowance.

40 days for Office delay in issuing the patent pursuant to 37 C.F.R. § 1.703(a)(6).

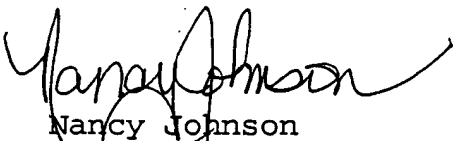
Patentees contend that they are entitled to a patent term adjustment of an additional 39 days, the period beginning on the day after the date that is four months after the date the issue fee was paid and all outstanding requirements were satisfied, October 28, 2005, and ending on the date the patent was issued, December 6, 2005. Patentees assert that 39 days should be added to the patent term adjustment of 711 days.

A review of the PALM calculations for this application reveals that the patent term adjustment at the time of the mailing of the notice of allowance was 671 days. Thereafter, the PTA was increased for Office delay in issuing the patent. Pursuant to § 1.702(a)(4), the period of adjustment for the number of days in the period beginning on the day after the date that is four months after the date the issue fee was paid and all outstanding requirements were satisfied, October 28, 2005, and ending on the date the patent was issued, December 6, 2005, of 40 days, not 39 days, was entered. As such, the revised determination already includes the 40 days for Office delay in issuing the patent pursuant to 37 C.F.R. § 1.703(a)(6) in calculating the patent term adjustment of 711 days indicated in the patent. An increase of the patent term adjustment to 750 days is not warranted.

In view of thereof, the patent properly issued with a patent term adjustment of 711 days.

Submission of the \$200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is required.

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
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Office of Petitions